

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

IN RE: FIRED UP, INC., Debtor.	§ § Chapter 11 § § CASE NO. 14-10447-TMD § § §
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GUC TRUST’S FIFTH OMNIBUS OBJECTION TO CLAIMS
(Assumed/No Liability)

This pleading requests relief that may be adverse to your interests.

If no timely response is filed within thirty (30) days from the date of service, the relief requested herein may be granted without a hearing being held.

A timely filed response is necessary for a hearing to be held.

This Objection seeks to disallow and expunge certain filed proofs of claim. Claimants receiving the objection should locate their names and claims on Exhibit A hereto.

TO THE HONORABLE TONY M. DAVIS, UNITED STATES BANKRUPTCY JUDGE:

COMES NOW the Fired Up General Unsecured Claims Litigation Trust (the “GUC Trust”) in the above-captioned chapter 11 case and hereby files this Fifth Omnibus Objection to Claims (Assumed/No Liability) (the “Objection”), stating in support thereof the following:

Jurisdiction and Background

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The Objection itself is grounded, *inter alia*, in Fed. R. Bankr. P. 3001 and 3007.

3. On March 27, 2014 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Western District of Texas, Austin Division (the “Court”), thereby commencing this chapter 11 case (the “Case”).

4. On October 29, 2014, the Debtor filed the *Debtor and Unsecured Creditors Committee’s Amended Joint Plan of Reorganization Dated October 29, 2014* (the “Plan”) [Docket No. 543]. On December 19, 2014, the Court entered the *Order Confirming the Debtor and Unsecured Creditors Committee’s Amended Joint Plan of Reorganization Dated October 29, 2014, as Modified* (the “Confirmation Order”) [Docket No. 655] confirming the Plan, which became effective on February 1, 2015 (the “Effective Date”).

5. The Plan and the Confirmation Order provide for the establishment of the GUC Trust as set forth in the *Liquidating Trust Agreement and Declaration of Trust* (the “LTA”) [Docket No. 602]. The Plan, Confirmation Order and the LTA provide for the appointment of a trustee. On November 20, 2014, pursuant to the *Notice of Identity of Proposed GUC Trustee Pursuant to Section 10.04.02.03.01 of the Debtor and the Unsecured Creditors Committee’s Amended Joint Plan of Reorganization Dated October 29, 2014* [Docket No. 599], JLL Consultants, Inc. was appointed as the GUC Trustee upon the Effective Date of the Plan.

6. Pursuant to the *Order Combined With Notice of Chapter 11 Bankruptcy Case, Meeting of Creditors, & Deadlines* (the “Bar Date Notice”) [Docket No. 22] entered on March 31, 2014, the General Unsecured Claims Bar Date was July 28, 2014, and the Governmental Claims Bar Date was September 23, 2014 (collectively, the “Claims Bar Dates”).

7. Pursuant to the Plan, the GUC Trust is authorized to object to General Unsecured Claims. *See* Plan §10.04.02.

8. Pursuant to Section 2.10 of the Plan, as extended pursuant to an Order entered July 14, 2015 [Docket No. 772], the deadline for the GUC Trust to object to General Unsecured Claims is December 31, 2015.

Objection to the Claims

9. Pursuant to section 502 of the Bankruptcy Code, a claim is deemed allowed unless a party in interest objects thereto. 11 U.S.C. § 502. Bankruptcy Rule 3007 provides that an objection must be in writing and that the claimant must be provided with not less than 30 days' notice of the hearing to be held in respect of such objection. Fed. R. Bankr. P. 3007.

10. The GUC Trust has examined the claims identified on **Exhibit A** hereto (collectively, the "Assumed Claims"), and has determined that the Assumed Claims have been assumed pursuant to the Plan or other applicable assumption order and, therefore, upon the assumption of the underlying executory contract or lease pursuant to section 365 of the Bankruptcy Code, were deemed cured and are not entitled to receive a distribution from the GUC Trust.

11. The GUC Trust hereby objects to the allowance of the Assumed Claims on the grounds that the Assumed Claims have been satisfied and therefore the GUC Trust has no liability to the claimants, and the Assumed Claims should be disallowed in their entirety. Failure to disallow the Assumed Claims will result in the claimants receiving an unwarranted double recovery.

12. Pursuant to Bankruptcy Rule 3007, the GUC Trust requests that the Assumed Claims listed on **Exhibit A** hereto be disallowed and expunged from the official claims register in the Case.

13. The GUC Trust reserves any and all rights to object on any other basis to any of the Claims as to which the Court does not grant the relief requested herein.

WHEREFORE, PREMISES CONSIDERED, the GUC Trust respectfully requests that

the Court enter an Order: (a) sustaining its claim objections; (b) disallowing for all purposes the Assumed Claims; (d) expunging from the official claims register in the Case the Assumed Claims; and (f) granting such other and further relief as may be just and proper.

Dated: September 2, 2015

Respectfully submitted,

/s/ G. James Landon

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COUNSEL TO THE GUC TRUST

CERTIFICATE OF SERVICE

The undersigned certifies that on the 2nd day of September, 2015, a true and correct copy of the foregoing Objection was served upon the following parties by electronic means as listed on the Court's CM/ECF noticing system or by facsimile and/or by regular first class mail, postage prepaid, and that the foregoing instrument was sent in the same manner and on the same day to all creditors and parties-in-interest listed on the attached Service List and by regular first class mail on the following:

ARC Cafe, LLC
C/O R. Brandon Bundren
DUANE MORRIS LLP
1330 Post Oak Blvd., Ste. 800
Houston, TX 77056

Base Jumper LLC
C/O Woodbury Corp.
2733 E Parleys Way #300
Salt Lake City, UT 84109

Ford Restaurant Group
c/o Stephen A. Roberts
STRASBURGER & PRICE, LLP
720 Brazos, Suite 700
Austin, TX 78701

Greatamerica Financial Svcs Corp
fka Greatamerica Leasing Corp
Attn: Peggy Upton
PO Box 609
Cedar Rapids, IA 52406

GS II Meridian Crossroads LLC
c/o Renee B. Weiss, Esquire
DDR Corp.
3300 Enterprise Parkway
P.O. Box 228042
Beachwood, OH 44122

Inland American San Antonio Westover, LLC
C/O MENTER RUDIN & TRIVELPIECE PC
Attn: Kevin M. Newman, Esq.
308 Maltbie St #200
Syracuse, NY 13204-1439

Legends of KC, LP
PO Box 95553
Las Vegas, NV 89193-5553

MB San Antonio Brooks LP
C/O MENTER RUDIN & TRIVELPIECE PC
Attn: Kevin M. Newman, Esq.
308 Maltbie St #200
Syracuse, NY 13204-1439

Northpark Mall/Joplin, LLC
C/O Gary L. Roddy, Vice President
CBL Center, Suite 500
2030 Hamilton Place Blvd
Chattanooga, TN 37421-6000

EXHIBIT A

Fired Up, Inc.

Fifth Omnibus Objection

Exhibit A - Assumed Executory Contract or Lease

Creditor Name and Address	Claim #	Claim Date	Case #	Claim Amount *	Class	Reason for Disallowance
ARC CAFE, LLC C/O R. BRANDON BUNDREN DUANE MORRIS LLP 1330 POST OAK BLVD., STE. 800 HOUSTON, TX 77056	172	7/28/2014	14-10447	\$256,646.68	U	Leases assumed per Amended Agreed Order Granting Debtor's Motion to assume leases (D#589, 11/17/14).
BASE JUMPER LLC C/O WOODBURY CORP. 2733 E PARLEYS WAY #300 SALT LAKE CITY, UT 84109	130	7/11/2014	14-10447	\$19,528.11	U	Lease assumed per Order Granting Debtor's Motion to assume leases (D#508, 10/8/14).
FORD RESTAURANT GROUP C/O STEPHEN A. ROBERTS STRASBURGER & PRICE, LLP 720 BRAZOS, SUITE 700 AUSTIN, TX 78701	173	7/28/2014	14-10447	\$137,964.24	U	Executory contract assumed per Final Order entered 5/6/14, D#153.
GREATAMERICA FINANCIAL SVCS CORP FKA GREATAMERICA LEASING CORP ATTN: PEGGY UPTON PO BOX 609 CEDAR RAPIDS, IA 52406	62	4/18/2014	14-10447	\$14,139.45	U	Executory contract assumed pursuant to the Plan (D#543, 10/29/14).
GS II MERIDIAN CROSSROADS LLC C/O RENEE B. WEISS, ESQUIRE DDR CORP. 3300 ENTERPRISE PARKWAY P.O. BOX 228042 BEACHWOOD, OH 44122	131	7/14/2014	14-10447	unliquidated	U	Lease assumed per Order Granting Debtor's Motion to assume leases (D#534, 10/23/14).
INLAND AMERICAN SAN ANTONIO WESTOVER, LLC C/O MENTER RUDIN & TRIVELPIECE PC ATTN: KEVIN M. NEWMAN, ESQ. 308 MALTBIE ST #200 SYRACUSE, NY 13204-1439	141	7/21/2014	14-10447	unliquidated	U	Lease assumed pursuant to the Plan (D#543, 10/29/14).
LEGENDS OF KC, LP PO BOX 95553 LAS VEGAS, NV 89193-5553	s442		14-10447	\$22,044.87	U	Lease assumed per Order Granting Debtor's Motion to assume leases (D#540, 10/29/14).

Fired Up, Inc.

Fifth Omnibus Objection

Exhibit A - Assumed Executory Contract or Lease

Creditor Name and Address	Claim #	Claim Date	Case #	Claim Amount *	Class	Reason for Disallowance
MB SAN ANTONIO BROOKS LP C/O MENTER RUDIN & TRIVELPIECE PC ATTN: KEVIN M. NEWMAN, ESQ. 308 MALTBIE ST #200 SYRACUSE, NY 13204-1439	144	7/21/2014	14-10447	unliquidated	U	Lease assumed per the Order Granting Debtor's Motion to assume leases (D#532, 10/23/14).
MB SAN ANTONIO BROOKS LP ATTN: MENTER RUDIN & TRIVELPIECE PC C/P KEVIN M. NEWMAN, ESQ. 308 MALTBIE ST #200 SYRACUSE, NY 13204-1439	143	7/21/2014	14-10447	unliquidated	U	Lease assumed per the Order Granting Debtor's Motion to assume leases (D#532, 10/23/14).
NORTH PARK MALL/JOPLIN, LLC C/O GARY L. RODDY, VICE PRESIDENT CBL CENTER, SUITE 500 2030 HAMILTON PLACE BLVD CHATTANOOGA, TN 37421-6000	77	5/12/2014	14-10447	\$5,666.67	U	Lease assumed per Order Granting Debtor's Motion to assume leases (D#540, 10/29/14).
Total for 10 Claims				\$455,990.02		